WA 11/2002
BEFORE
THE HON'BLE THE CHIEF JUSTICE B. S. REDDY
THE HON'BLE MR.JUSTICE HRISHIKESH ROY
JUDGMENT AND ORDER

HRISHIKESH ROY, J.

Heard Mr. K.N. Choudhury, the learned senior Advocate for the appellant. Also heard Mr. P.C. Deka, the learned senior Advocate for the respondent/writ petitioner Vijaya Bank.

2. Assumption of jurisdiction by the State Government constituted Labour Court at Dibrugarh on claims for subsistence allowance put forward by the appellant led the respondent Vijaya Bank (herein after referred to as the 'Bank') to file writ petitions challenging the jurisdiction of the Labour Court at Dibrugarh. The judgment given by the learned Single Judge on the writ proceedings initiated by the Bank by holding that the Labour Court has no jurisdiction to entertain the claim of the appellant for subsistence allowance, has given rise to presentation of the two writ appeals, which are to be considered in the present proceedings.

3. The W.A.381 of 2001 has been filed assailing the judgment dated 22.8.2001 in Civil Rule No.3735 of 1995. In the said writ petition, the Vijaya Bank had challenged the process issued by the Labour Court at Dibrugarh on an application filed by the present appellant under Section 33(c)(2) seeking recovery of money allegedly due from the Bank. The Bank in the writ proceeding contended that it is a nationalized bank and as such the 'Appropriate Government' for them in relation to a matter under the Industrial Disputes Act, 1947 (herein after referred to as 1947 Act) would be the Central Government in terms of the definition given under Section 2(a) of the 1947 Act. It was contended that as the Labour Court at Dibrugarh has been constituted by the Assam Government and the appropriate Government for the Bank, i.e. the Central Government has not 'specified' the said court for exercising jurisdiction under Section 33(C)(2) of the I.D. Act, the issue of process to Vijaya Bank by the said Court is without any jurisdiction. The decision of the learned Single Judge upholding the said contention of the writ petitioner bank is under challenge in the present proceeding.

4. The challenge in W.A. No.11 of 2002 is to an order dated 24.8.2001 passed in Civil Rule No.2771 of 1997 of the learned Single Judge which was passed by following the earlier decision dated 22.8.2001 in Civil Rule 3735 of 1995, whereby it was reiterated that the Labour Court at Dibrugarh has no jurisdiction to entertain a matter pertaining to an employee of the writ petitioner Vijaya Bank. By the order dated 24.8.2001, the learned Single Judge has permitted the appellant to seek relief before any other appropriate authority.

5. It appears from examination of the judgments under appeal that, the learned Single Judge proceeded on the basis that in case of employees of the nationalized Vijaya Bank, the appropriate Government is the Central Government and it accordingly concluded that only such Labour Court as has been specified in this behalf by the appropriate Government (Central Government), which would have jurisdiction to decide the dispute raised by an employee of the respondent Bank. The learned Single Judge accepted the submission made on behalf of the Bank that as the Labour Court at Dibrugarh has not been specified by the Central Government to consider applications under Section 33C(2) of the 1947 Act in respect of employees of the bank, the entertainment of application filed by an employee of the bank by the Labour Court at Dibrugarh was without jurisdiction.

In support of the said view taken by the learned Single Judge, reference to the decision in Management of Socklatinga Tea Estate vrs. N.I. Korean, reported in AIR 1968 Assam & Nagaland 15 and the decision of the Supreme Court in the case of Treogi Nath vrs. Indian Iron & Steel Co., reported in AIR 1968 SC 205 has been made in the impugned judgment.

6. Mr. K.N. Choudhury, the learned senior counsel for the appellant has drawn attention of this Court to various provisions of the 1947 Act and also the pr

ovisions of the Industrial Employment (Standing Orders) Act, 1946 (herein after referred to as the Standing Orders Act) to contend that the Labour Court at Dibrugarh has the jurisdiction to entertain the application of the appellant.

It is submitted that by virtue of the 'explanation' incorporated in Section 33C of the 1947 Act, the Labour Court constituted by a State Government would also be competent to entertain an application of an employee of a nationalized Bank for whom the appropriate Government may be the Central Government. The learned counsel has further argued that the decisions relied upon by the learned Single Judge in Management of Socklatinga Tea Estate(supra) and Treogi Nath(supra) are not applicable and accordingly, the decision of the learned Single Judge is liable to be interfered with by accepting the present appeals.

The learned counsel for the appellant has also drawn attention of the Court to the provisions of Section 10A(2) of the Standing Orders Act. Section 10A(2) of the Standing Orders Act provides that if any dispute arises regarding subsistence allowance payable to a workman, the workman or the employer concerned may refer the dispute to the Labour Court constituted under the 1947 Act within the local limits of whose jurisdiction, the industrial establishment wherein such workman is employed, is situate.

On the other hand, Mr. P.C. Deka, the learned senior counsel appearing for the writ petitioner Bank has supported the order passed by the learned Single Judge and has argued that as the writ petitioner Bank is a nationalized bank, the appropriate Government under the provisions of Section 2(a)(i) of the 1947 Act is the Central Government. Therefore, it is argued by the learned counsel that only a Labour Court constituted by the Central Government can adjudicate on the present dispute having regard to the provisions of Section 33C(2) of the 1947 Act.

The Labour Court at Dibrugarh has been constituted by the State Government and since the Central Government has not 'specified' the said Court to adjudicate on disputes in relation to employees of the Bank, the assumption of jurisdiction by the State Government constituted Labour Court at Dibrugarh has been submitted to be without any authority.

Through this submission, the learned counsel for the respondent Bank has tried to support the view taken by the learned Single Judge in the impugned judgments.

7. On examination of the provisions of Section 2(a) of the 1947 Act, it is seen that in respect of the Vijaya Bank, which is a nationalized bank, the appropriate Government would naturally be the Central Government. It is further seen that the Central Government has not specified the Labour Court at Dibrugarh as the authority to decide on a dispute raised under Section 33C(2) of the 1947 Act in respect of employees under the said Bank. There is no dispute about the fact that the Labour Court at Dibrugarh has been constituted by the Assam Government, which is not the appropriate Government in respect of a nationalized bank.

The explanation appended to Section 33C of the 1947 Act, in the perception of this Court, appears to indicate that even a Labour Court constituted by the State Government could be 'specified' to adjudicate on a dispute raised by an employee of a nationalized bank, provided such Labour Court is specified by the appropriate Government for the said purpose.

In the instant case, the Labour Court at Dibrugarh has not been 'specified' by the Central Government for the said purpose and accordingly, we are unable to agree with the first submission advanced by the learned counsel for the appellant that the Labour Court at Dibrugarh would have jurisdiction to entertain the application filed by the appellant only on the basis of the provisions under the 1947 Act.

However, the provisions of the Standing orders Act appear to indicate that a Labour Court constituted under the 1947 Act, whether by the State Government or Central Government, would have jurisdiction to entertain a claim of subsistence allowance payable to a workman on an application made to such Labour Court by the concerned workman. The provisions of Section 10A(2) of the Standing Orders Act is a special provision incorporated only for adjudicating on claim relating to payment of subsistence allowance.

Having regard to the special provision under Section 10A(2) of the Standing Orders Act, we feel that the Labour Court at Dibrugarh, although constituted by the

State Government, would have jurisdiction to entertain a claim for subsistence allowance even in respect of employees under a nationalized banks. It is not specified in Section 10A(2) of the Standing Orders Act that the Labour Court constituted under the 1947 Act has to be a Labour Court constituted by an appropriate Government. It is also not stipulated that the appropriate Government has to 'specify' such a Labour Court for entertaining an application under Section 10A(2) of the Standing Orders Act. The only requirement for assumption of jurisdiction by a Labour Court under Section 10A(2) of the Standing Orders Act is that the Labour Court has to be one, which has been constituted under the 1947 Act and the concerned establishment must be functioning within the local limits of the jurisdiction of such Labour Court.

8. Having noted the provisions as above, we are of the view that the entertainment of the application by the Labour Court at Dibrugarh was proper in respect of the claim for subsistence allowance put forward by the appellant. We hold that with regard to the claim for subsistence allowance put forward by the appellant against the respondent bank, the Labour Court at Dibrugarh has jurisdiction. We accordingly declare that the Labour Court at Dibrugarh was competent and had jurisdiction to entertain the claim for subsistence allowance put forward by the appellant. The impugned decisions of the learned Single Judge to the contrary is accordingly interfered with.

The writ appeals are accordingly allowed to the extent indicated above.